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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,792	11/17/2003	Jay Novak	LA-7252-106.US/10311473	4550

167 7590 08/23/2005

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EXAMINER

AYRES, TIMOTHY MICHAEL

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/715,792

Applicant(s)

NOVAK, JAY

Examiner

Timothy M. Ayres

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/17/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

This is a first office action on the merits of application SN 10/715,792.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. The term "similarly proportioned" in claim 11 is a relative term which renders the claim indefinite. The term "similarly proportioned" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is unclear in what respect that the two portions are related.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

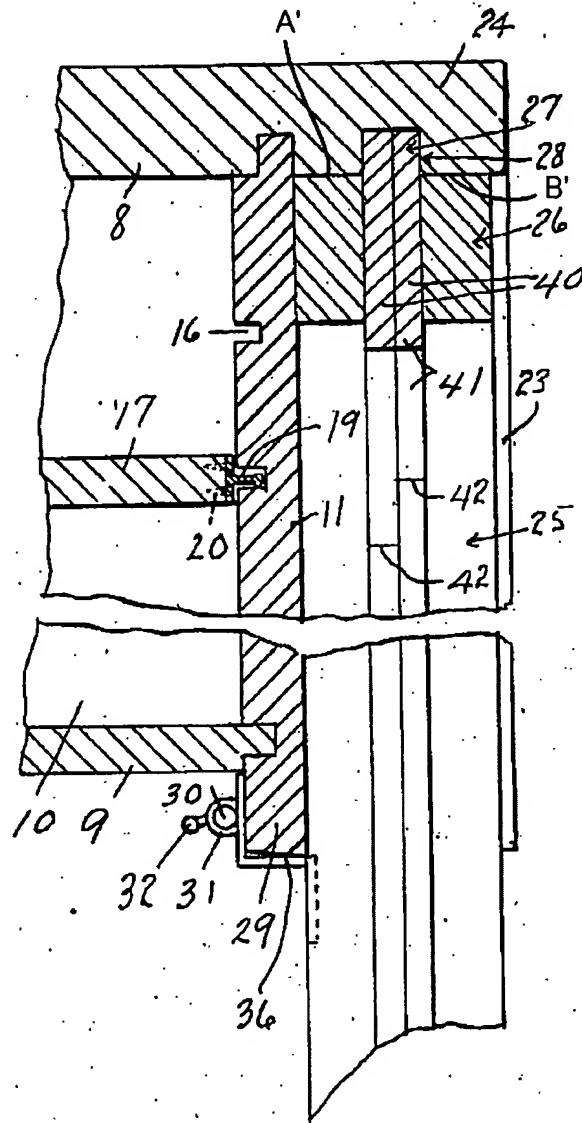
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5-7, 9-11, 13-16, 18, 19, 21-23, and 26 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Patent 2,404,182 to Kump. Kump

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'182 discloses a support member (25, 26,27, A', B') made of plywood (col. 4, line 12-29). It is inherent that plywood is made up of a plurality of wood plies, wherein each ply is joined to at least one other ply at one of a plurality of interfaces and each ply has a grain, which is oriented in a different direction relative to grains of adjacent plies. Kump '182 refers to a previous application and later U.S. Patent 2,413,145 to himself, which discloses the type of standard plywood he uses (Kump '145, Col. 1, line 18-23). For most plywood the different direction is generally orthogonal which provides the most strength. The support member (25, 26,27, A', B') has a tenon portion (27) atop a body portion (26), at least part of the tenon portion (27) extending outwardly from the body portion (26) as best seen in figure 2 below.

3. Regarding claims 2, 7, 11, 15, and 22, the interfaces are generally parallel along a longitudinal direction of the support member (25, 26,27, A', B') as best seen in figures 1 and 2. The tenon portion (27) is now the first tenon portion (27). An outwardly extending second tenon portion (A', B') as seen below in figure 2. The first tenon portion (27) and the body portion (26) are similarly proportioned.



Kump '182 Figure 2

4. Regarding claims 15, 16, 22, and 23, the support member (25, 26, 27, A', B') is part of a table (8). A top (24) having at least one mortise (28) on one side thereof into which at least the first tenon portion (27) of each leg (25, 26, 27, A', B'). Wherein each

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mortise (28) is formed to compliment at least the first tenon portion (27) and second portion (A', B') of each leg (25, 26, 27, A', B'), respectively.

5. Regarding claims 6, 10, 14, 18 and 22, a foot protector (45) disposed about a foot portion (25) of the support member (25, 26, 27, A', B'), the foot portion (25) being on an opposite side of the body portion (26) from the tenon portion (27) as best seen in figure 1.

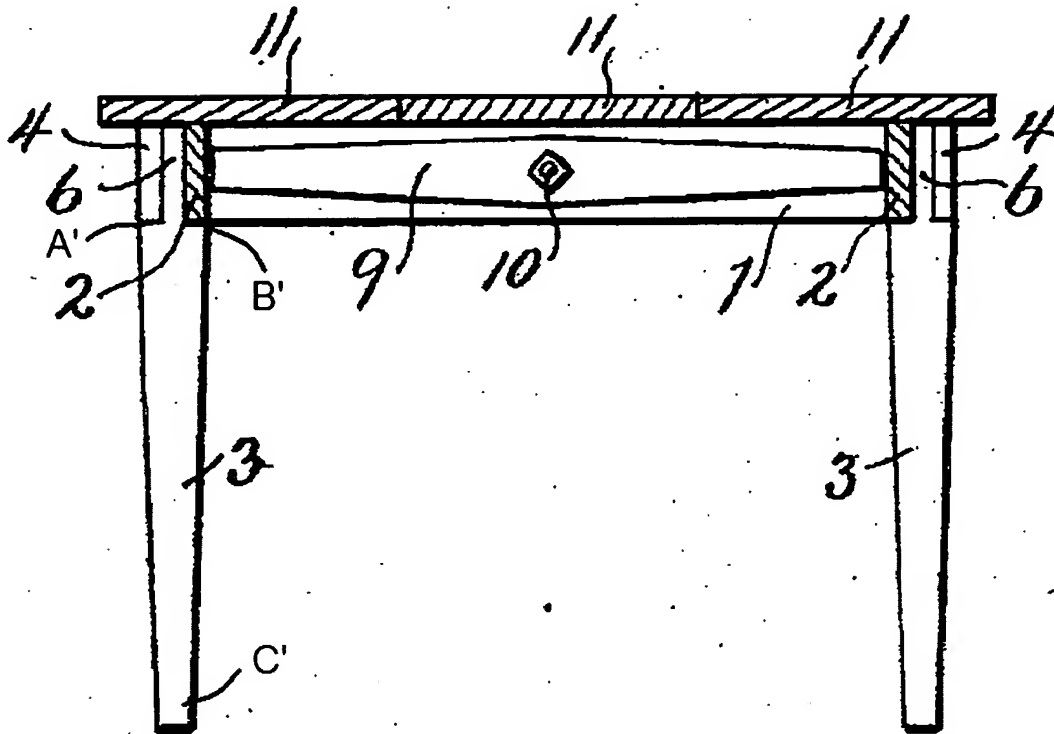
6. Regarding claims 5, 9, 13, 21, and 26, the second tenon portion (A', B') extends outwardly from at least two sides of the body portion (26).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4, 8, 12, 20, and 25 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 2404,182 to Kump in view of U.S. Patent 740,846 to Giddings. Kump '182 discloses every element as described above except the second tenon portion of each leg extends outwardly by a distance that is at least as great as a width of the body portion. Giddings '846 discloses a table (11) with legs (3) with a first tenon portion (6) atop a body portion (C'). Second tenon portion (A', B') extends outwardly by a distance that the same as the width of the body portion (C') because of the taper in the leg (3).



Giddings '846 Figure 2

9. At the time of the invention it would have been obvious for a person of ordinary skill in the art to take the table and support assembly of Kump and modify the legs with the taper of Giddings to make it more aesthetically pleasing.

10. Claims 17 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 2404,182 to Kump in view of U.S. Patent 3,300,245 to Rumble. Kump '182 discloses every element as described above except that each mortise extends through the top. Rumble '245 discloses a picnic table made from plywood. The support members have a tenon (14) that corresponds to mortise (9) that extends through table (1). At the time of the invention it would have been obvious for a person of ordinary skill

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to take the table of Kump and make the mortise extend through the table like Rumble's table so that the support member is more secure.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 2,413,145 to Kump discloses a support member made of plywood. U.S. Patent 6,443,076 to Case discloses a picnic table made out of plywood that uses a mortise and tenon configuration for the support members. U.S. Patent 6,126,022 to Merkel discloses a shelving system that has support members that use a mortise and tenon system. U.S. Patent 4,191,113 to Hogberg discloses a table with a support member that has a tenon to fit into a corresponding mortise on the top. U.S. Patent 6,827,028 to Callaway discloses a table with a support member that has multiple tenons that corresponds to mortises on the top.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Ayres whose telephone number is (571) 272-8299. The examiner can normally be reached on MON-FRI 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TMA
8/18/05



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